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ASSISTANT COMMISSIONER FOR PATENTS
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RE: Attorney Docket No.: SIEM0018UUS
Application Serial No.: 09/762,259
Confirmation No.: 2819
Filed: 02/02/2001
Title: Method for administering a service for a subscriber
Inventor: Renate Zygan-Maus
Group Art Unit: 2684
Examiner: Sobutka, P.

SIR:

Attached hereto for filing are the following papers:
37 CFR 41.37 Appeal Brief (18 pages)

Our check in the amount of \$340.00 is attached covering the required fees.

The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 50-2106. A duplicate copy of this sheet is enclosed.

31518
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10/12/2004
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NEIFELD Patent No.: SIEM0018U/US

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF: Renate Zygan-Maus GROUP ART UNIT: 2684
SERIAL NO.: 09/762,259 EXAMINER: SOBUTKA, Philip
FILED: 02/02/2001 CONFIRMATION NO.: 2819
FOR: Method for Administering a Service for a Subscriber

ASSISTANT COMMISSIONER FOR PATENTS
ALEXANDRIA, VA 22313

37 CFR 41.37 APPEAL BRIEF

BOX STOP APPEAL BRIEF - PATENTS
COMMISSIONER FOR PATENTS
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Sir:

This is an appeal from the final rejection mailed May 26, 2004, of claims 1-6. A Notice of Appeal was timely filed August 25, 2004. The claims on appeal are set forth in the Appendix.

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I. 37 CFR 41.37(a)

This brief is accompanied by the fee set forth in 37 CFR 1.17(c), and sets forth the authorities and arguments on which the appellant will rely to maintain the appeal.

II. 37 CFR 41.37(b)

The filing is timely. Accordingly, this subsection is not relevant.

III. 37 CFR 41.37(c)(1)(i) Real party in interest

The real party in interest is SIEMENS Aktiengesellschaft, a German corporation.

IV. 37 CFR 41.37(c)(1)(ii) Related appeals and interferences

There are no related pending appeals, pending interferences, or requests for interferences known to the appellant's representative or the appellant's assignee.

V. 37 CFR 41.37(c)(1) (iii) Status of claims

Claims 1-10 are pending. Claims 1-6 stand rejected, and under appeal. Claims 7-10 stand objected to.

VI. 37 CFR 41.37(c)(1) (iv) Status of amendments

All amendments are entered.

VII. 37 CFR 41.37(c)(1)(v) Summary of claimed subject matter

The subject matter of claim 1 is a method for administering a function of a service, comprising the steps of: accepting a request for administration of said function via a mobile network terminal device of a mobile network subscriber [page 3 lines 16-19; page 5 lines 5-8]; identifying said mobile network subscriber [page 3 lines 19-20; page 5 lines 8-10]; instructing, following a successful identification, said mobile network subscriber that said service should now be informed of a connection number of a fixed network terminal device for said administration of said function [page 3 lines 21-26]; allocating a connection number

communicated after instructing said mobile network subscriber to said mobile network subscriber [page 3 lines 26-27]; and controlling a handling of a call initiated from said fixed network terminal device via said service, said call being allocated to said mobile network subscriber with assistance of said connection number of said fixed network, dependent on a profile of said mobile network subscriber [page 4 lines 3-18; page 5 lines 10-12].

The subject matter of claim 4 is a service logic for control of a service, comprising: means for accepting a request for administering a function of said service via a mobile network terminal device of a mobile network subscriber [page 3 lines 16-19; page 5 lines 5-8]; means for subsequently identifying said mobile network subscriber [page 3 lines 19-20; page 5 lines 8-10]; means for instructing, following a successful identification, said mobile network subscriber that it should now be informed of a connection number of a fixed network terminal device for the administration of said function [page 3 lines 21-26]; means for allocating a connection number communicated after instructing said mobile network subscriber to said mobile network subscriber [page 3 lines 26-27]; and means for controlling a handling of a call initiated from said fixed network terminal device via said service, said call being allocated to said mobile network subscriber with assistance of said connection number of said fixed network, dependent on a profile of said mobile network subscriber [page 4 lines 3-18; page 5 lines 10-12].

The subject matter of claim 5 is a service logic according to claim 4, further comprising a means of informing said mobile network subscriber of a selection code that is to be additionally employed given use of said fixed network terminal device via said service [page 3 lines 27-31].

The subject matter of claim 6 is a service logic according to claim 4, further comprising: means for automatically de-registering said fixed network terminal device that has been employed after expiration of a prescribable time or by an explicit deregistration procedure via said mobile telephone, resulting in a loss of a property of being able to be used by the mobile network subscriber according to said subscriber's user profile [page 4 line 24 - page 5 line 2].

VIII. 37 CFR 41.37(c)(1)(vi) Grounds for rejection to be reviewed on appeal

Claims 1-6 stand rejected under 35 USC 103(a) as being unpatentable over U.S. patent no. 5,539,807 to Ghisler et al. ("Ghisler").

IX. 37 CFR 41.37(c)(1)(vii) Argument

A. The Examiner's Arguments In Rejecting Claims 1-6 Under 35 USC 103(a) as Obvious Based Upon USP 5,539,807 to Ghisler et al.

1. The Examiner's Assertions

The examiner rejects claims 1-6 under 35 USC 103(a) as being obvious over Ghisler, stating that:

Claims 1-6 are rejected under 35 USC 103(a) as being unpatentable over Ghisler et al. (US 5,539,807).

Consider claim 6. Ghisler teaches logic comprising: means for accepting a request for administering a function of a service via a mobile terminal of a mobile network (Ghisler see especially col 5, lines 5-40); note that it is inherent in the system of Ghisler that the system identify the mobile subscriber; means informing the system of a connection number of a fixed network terminal (Ghisler see especially col 5, lines 5-40); means for allocating the connection number communicated after instructing the mobile subscriber (Ghisler see especially col 6, lines 5-16); and means for controlling a handling of a call initiated from the fixed network terminal device via the service, the call being charged, "allocated" to the mobile subscriber (Ghisler see especially col 6, lines 17-30). Ghisler differs from the claims in that Ghisler enters the fixed terminal number initially rather than being prompted[.] Official notice is taken that it is notoriously well known in the art to use prompts in order to ensure that the user properly executes the procedure. It would have been obvious to one of ordinary skill in the art for the arrangement of Ghisler to prompt the user for the fixed number in order to ensure that the user properly executes the procedure.

As to claim 1, the arrangement of Ghisler as modified above would perform the claimed steps.

As to claims 2, 5, note that Ghisler's arrangement includes the user of a code, a PIN (Ghisler see especially col 5, line 55 - col 6, line 5).

As to claims 3, 6, note that Ghisler's arrangement ends after completion of the call (Ghisler col 4, lines 60-65). [Office action mailed May 26, 2004 page 2 line 5 through page 3 line 6.]

2. The Citations Relied Upon By the Examiner

In rejecting claim 1, the examiner relies upon Ghisler at column 5 lines 5-40, which states that:

The automatic service according to the invention calls the wirebound telephone as described above in connection with the use of a bar code reader, and the following steps are the same as in that case.

The embodiments described above will now be explained more in detail with reference to the FIGS. 1 and 2.

FIG. 1 shows a fixed home telephone 1 belonging to a home subscription and connected to a public telephone network 2, also called PSTN (public switched telephone network). A mobile telephone switch 3, also called MSC (mobile services centre) is communicating via a base station 4, also called BS, with a mobile telephone 5. The subscriber of the terminals 1 and 5 desires to use a terminal 6, also belonging to the network 2, and to enable his home subscription to be charged.

The terminal 6 has as an example been shown as a fixed telephone, but the invention is also valid for all kinds of terminals which are connected by wire or by radio to a telecommunication network, e.g. a telefax machine, a personal computer, a mobitex terminal (an Ericsson product), etc.

The other details in FIG. 1 will be described in connection with the flow chart in FIG. 2, the designation numerals of which are in agreement with the numerals of the affected connections in FIG. 1.

Below, step 11 in the flow chart is first explained. When the mobile telephone 5 has been switched on, the subscriber requests via the radio interface to use the terminal 6 for communication, and that the cost for the use are to be

charged to his subscription in the fixed network. (It would of course be possible to charge his mobile telephone subscription, but the mobile telephone operator is perhaps less interested in providing this service, which may reduce his revenue while it increases the revenue of the operator of the wirebound telephone network). [Ghisler at column 5 lines 5-40.]

In rejecting claim 1, the examiner further relies upon Ghisler at column 6 lines 17-30, which states that:

Step 18 indicates that the PSTN charges the connection to the home subscription of the subscriber. It should also be possible in step 18 to charge one of several possible accounts, e.g. one account for a private call and another account for a company call. If there are several accounts the selection should be done by entering an extra digit in step 16 in connection with entering the PIN.

Above, in connection with describing step 17 in FIG. 2, it was mentioned that, alternatively to the mobile subscriber entering the number of the B-subscriber on the handset belonging to the terminal 6, he could inform the PSTN 2 of the number of the B-subscriber via the key pad of the mobile terminal 5. A further embodiment directed to this alternative will now be described with reference to FIGS. 3 and 4. [Ghisler at column 6 lines 17-30.]

B. Claim 1 - The Applicant's Response

1. Summary of Argument

The applicant submits that the examiner's rejection of claim 1 under 35 USC 103(a) is in error because the examiner has not made a proper *prima facie* rejection. The examiner provides no reasoning to explain why one of ordinary skill in the art at the time of the invention would have modified the teachings of Ghisler to obtain the claimed "allocating a connection number... to said mobile network subscriber" recited in claim 1 but not taught or suggested by Ghisler.

2. **Disputed Factual Assertion - Ghisler Does Not Teach or Suggest
“allocating a connection number... to said mobile network subscriber”**

The examiner asserts that: “[c]onsider claim 6. Ghisler teaches... means for controlling a handling of a call initiated from the fixed network terminal device via the service, the call being charged, “allocated” to the mobile subscriber...” That assertion is incorrect. Specifically, charging a call to a user is not the claimed “allocating a connection number... to said mobile network subscriber,” as will be explained below.

3. **The Construction of the Claim Term “allocating a connection
number... to said mobile network subscriber” as Recited in Claim 1**

Claim 1 recites:

A method for administering a function of a service, comprising the steps
of:

accepting a request for administration of said function via a mobile
network terminal device of a mobile network subscriber;
identifying said mobile network subscriber;
instructing, following a successful identification, said mobile network
subscriber that said service should now be informed of a *connection number of a
fixed network terminal device* for said administration of said function;
allocating a connection number communicated after instructing said
mobile network subscriber *to said mobile network subscriber*; and
controlling a handling of a call initiated from said fixed network terminal
device via said service, said *call being allocated to said mobile network
subscriber with assistance of said connection number* of said fixed network,
dependent on a profile of said mobile network subscriber. [Claim 1; emphasis
added.]

a. **“allocating”**

A dictionary definition of the claim term “allocating” is “setting apart for a special
purpose; designating.” www.dictionary.com. In the context of the present invention (fixed-

mobile converged service), an artisan would recognize, therefore, that “allocating” a connection number means setting apart or designating the connection number for special use by a particular mobile subscriber. Thus, the claim term “allocating” would denote to the artisan that the connection number is to be used in manner that is distinct and separate from its ordinary, regular use. This construction of the claim term “allocating” recited in claim 1 is consistent with, and therefore supported by, the specification of this application at page 3 lines 16-27, which states that:

The subscriber selects an FMC service access code at the mobile telephone GSM. The access request is potentially forwarded to the FMC service across network boundaries (here, from a mobile network PLMN via a digital fixed network PSTN). The FMC service automatically identifies the subscriber on the basis of the subscriber's mobile radiotelephone number MSISDN. The FMC service responds by initiating that the *subscriber should now inform the service of a connection number of a fixed network terminal device*. Via voice or DTMF input, the *subscriber enters the CallingLineIdentity of the fixed network terminal device that he would like to use* at his own expense for outgoing calls or other line-switched services (for example, data transmission) *for a definable time duration or, respectively, until an explicit deregistration*. *The FMC service subsequently registers the terminal device and assigns it to the subscriber*.

[Specification at page 3 lines 16-27; emphasis added.]

The description of this exemplary embodiment from the specification of this application discloses that the subscriber informs the FMC service of the connection number of a fixed terminal device and that the FMC service registers the terminal device and *assigns* it to the subscriber. Therefore, as stated above, this disclosure is consistent with the dictionary definition that “allocating” means “setting apart for a special purpose; designating.”

The meaning of the term “allocating” of claim 1 is further illustrated, for example, by the following passage from the specification of this application at page 4 lines 19-21, which states that:

The FMC service subscriber can also *use* the registered fixed network terminal device *for subsequent calls* in the same way *without requiring a separate PIN*, namely until a de-registration takes place. [Specification at page 4 lines 19-21; emphasis added.]

This passage is not consistent with the examiner's construction which relates "allocating" to charging a subscriber's subscription for a *single* call. Thus, based upon the dictionary definition and the teachings of the specification of this application, one of ordinary skill in the art would understand that the claim term "allocating" means "dedicating or setting apart" the terminal device for more than a single call because the specification distinctly states that "FMC service subscriber can also *use* the registered fixed network terminal device *for subsequent calls* in the same way *without requiring a separate PIN*..."

b. **"connection number"**

In the context of the present invention, one of ordinary skill in the art would recognize that the claim term "connection number" is the access number permanently associated with a particular fixed network terminal device. Thus, the artisan would recognize that the claimed "connection number" is simply the fixed digital network PSTN number to which calls are charged when the fixed network terminal device is in use on the PSTN. This construction of the claim term "connection number" is consistent with the teachings of the specification of this application, which for example discloses at page 3 lines 19-27 that:

...The FMC service automatically identifies the subscriber on the basis of the subscriber's mobile radiotelephone number MSISDN. The FMC service responds by initiating that the subscriber should now inform the service of a *connection number* of a fixed network terminal device. Via voice or DTMF input, the subscriber enters the CallingLineIdentity of the fixed network terminal device that he would like to use at his own expense for outgoing calls or other line-switched services (for example, data transmission) for a definable time duration or, respectively, until an explicit deregistration. The FMC service subsequently registers the terminal device and assigns it to the subscriber....[Specification at

page 3 lines 19-27; emphasis added.]

Thus, the “CallingLineIdentity of the fixed network terminal device” disclosed in the specification of this application would be recognized by the artisan as being simply the “telephone number” used to access the fixed terminal device over the Public Switched Telephone Network (PSTN).

c. **“to said mobile network subscriber”**

The claim term “network subscriber” recited in claim 1 would be recognized by one of ordinary skill in the art to be a subscriber to an FMC (fixed-mobile converged) service based on the teachings of the specification of this application. In an exemplary embodiment of the claimed “network subscriber” of claim 1, the specification of this application, teaches at page 2 line 30 to page 3 line 9 that:

For an FMC service whose service logic is realized in a service control point SCP, the caller has a mobile telephone GSM available. For an access of the subscriber to the FMC service via the mobile telephone, the FMC service logic receives the mobile radiotelephone number MSISDN of the FMC service subscriber that is administratively known to the FMC service logic and that was authenticated in the mobile radiotelephone network PLMN (given an IN-based FMC service, for example, the mobile radiotelephone number of the FMC service subscriber is transmitted in the CallingPartyNumber parameter of the standardized IN protocol, see ETSI Core INAP or ITU-T Recommendations Q.1218/Q.1228). The FMC service logic can automatically identify and authorize the FMC subscriber on the basis of the subscriber's mobile radiotelephone number .
[Specification at page 2 line 30 to page 3 line 9.]

Thus, the description of this exemplary embodiment from the specification of this application discloses that a subscriber may access a registered terminal device multiple times in succession *without* having to re-supply a PIN each time.

d. **Conclusion**

Therefore, one of ordinary skill in the art would recognize that the claim 1 recitation “...allocating a connection number communicated after instructing said mobile network subscriber to said mobile network subscriber...said call being allocated to said mobile network subscriber with assistance of said connection number...” defines a method where a subscriber is assigned a fixed network device identified by a connection number and where the terminal device is registered to that subscriber exclusively, thereby eliminating the requirement that the subscriber supply a PIN on subsequent calls.

4. **Ghisler Does Not Teach or Suggest “allocating a connection number... to said mobile network subscriber” as Recited in Claim 1**

In contrast to the method defined by the recitation of claim 1, Ghisler discloses at column 4 line 53-65 that:

When using the present invention one pushes a predetermined key, e.g. 9, on the key pad of the mobile telephone and directs at the same time the bar code reader towards the bar code label of the wirebound telephone, which is desired to be used. The automatic service according to the invention calls the wirebound telephone and when the telephone handset is lifted *a voice asks for the secret code. This code is entered on the key pad of the wirebound telephone and if the code is correct a dialing tone is received*, because the automatic service has assigned a line. On the key pad of the wirebound telephone the number of the telephone desired to be called can now be entered. After the call is finished the automatic service charges the cost to the wirebound subscription of the mobile subscriber. [Ghisler at column 4 lines 53-65; emphasis added.]

Therefore, it is clear that the system disclosed by Ghisler requires that the user enter a “secret code,” e.g., a PIN, each and every time the user makes a call on the “wirebound telephone.” One of ordinary skill in the art would recognize that Ghisler’s “secret code” is not the claimed “connection number,” because the “secret code” does not identify a *connection*. Rather, the Ghisler’s “secret code” identifies the *user*.

Further, the artisan would recognize that Ghisler's system does not not teach the claimed "allocating," recited in claim 1. This is because, as explained above, the claim 1's "allocating," when properly construed, means "dedicating or setting apart" for more than a single call. Because Ghisler's system requires that the user enter a PIN each and every time the user makes a call, one of ordinary skill in the art would recognize that Ghisler's system cannot be "allocating" the wirebound telephone to the user, as claimed in claim 1, because different users can access Ghisler's wirebound telephone on consecutive calls by using different PINs.

Therefore, Ghisler does not disclose or suggest "...allocating a connection number communicated after instructing said mobile network subscriber to said mobile network subscriber...said call being allocated to said mobile network subscriber with assistance of said connection number..." as recited in claim 1 and disclosed by the applicant's specification. Therefore, claim 1 is not obvious in view of Ghisler. Therefore, the applicant respectfully submits that the rejection of claim 1 under 37 CFR 103(a) over Ghisler is improper and should be reversed.

C. Claims 2 and 3 - Dependency On Allowable Claim 1

Claims 2 and 3 depend from independent claim 1. Therefore, claims 2 and 3 are not obvious in view of Ghisler for at least the reasons given above for claim 1. Therefore, the applicant respectfully submits that the rejections of claims 2 and 3 under 37 CFR 103(a) over Ghisler are improper and should be reversed.

D. Claim 4 - "means for allocating a connection number...to said mobile network subscriber"

Claim 4 recites:

4. A service logic for control of a service, comprising:

means for accepting a request for administering a function of said service via a mobile network terminal device of a mobile network subscriber;

means for subsequently identifying said mobile network subscriber;

means for instructing, following a successful identification, said mobile network subscriber that it should now be informed of a connection number of a fixed network terminal device for the administration of said function;

means for allocating a connection number communicated after instructing said mobile network subscriber to said mobile network subscriber; and

means for controlling a handling of a call initiated from said fixed network terminal device via said service, said call being allocated to said mobile network subscriber with assistance of said connection number of said fixed network, dependent on a profile of said mobile network subscriber. [Claim 4; emphasis added.]

Claim 4 recites “...means for allocating a connection number communicated after instructing said mobile network subscriber to said mobile network subscriber; and means for controlling a handling of a call initiated from said fixed network terminal device via said service, said call being allocated to said mobile network subscriber with assistance of said connection number of said fixed network....” As explained above, Ghisler does not disclose or suggest at least “means for allocating a connection number,” as recited in claim 4. Therefore, claim 4 is not obvious in view of Ghisler for at least the reasons given above for claim 1. Therefore, the applicant respectfully submits that the rejection of claim 4 under 37 CFR 103(a) over Ghisler is improper and should be reversed.

E. Claims 5 and 6 - Dependency On Allowable Claim 4

Claims 5 and 6 depend from independent claim 4. Therefore, claims 5 and 6 are not obvious in view of Ghisler for at least the reasons given above for claim 4. Therefore, the applicant respectfully submits that the rejections of claims 5 and 6 under 37 CFR 103(a) over Ghisler are improper and should be reversed.

X. 37 CFR 41.37(d) - Non-compliant Brief

This brief is in compliance with 37 CFR 41.37(c). Accordingly, this subsection is inapplicable.

Respectfully Submitted,

10/12/2004

Date

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PATENT TRADEMARK OFFICE

XI. **37 CFR 41.37(c)(1)(viii) - Claims appendix**

Claims On Appeal

1. A method for administering a function of a service, comprising the steps of:
accepting a request for administration of said function via a mobile network terminal device of a mobile network subscriber;
identifying said mobile network subscriber;
instructing, following a successful identification, said mobile network subscriber that said service should now be informed of a connection number of a fixed network terminal device for said administration of said function;
allocating a connection number communicated after instructing said mobile network subscriber to said mobile network subscriber; and
controlling a handling of a call initiated from said fixed network terminal device via said service, said call being allocated to said mobile network subscriber with assistance of said connection number of said fixed network, dependent on a profile of said mobile network subscriber.
2. The method according to claim 1, further comprising the step of informing said mobile network subscriber of a selection code that is to be additionally employed given use of said fixed network terminal device via said service.
3. The method according to claim 1, further comprising the step of automatically de-registering said fixed network terminal device that has been employed after expiration of a prescribable time or by an explicit de-registration procedure via said mobile network terminal device, resulting in a loss of a property of being able to be used by said mobile network subscriber according to said subscriber's profile.
4. A service logic for control of a service, comprising:
means for accepting a request for administering a function of said service via a mobile network terminal device of a mobile network subscriber;
means for subsequently identifying said mobile network subscriber;

means for instructing, following a successful identification, said mobile network subscriber that it should now be informed of a connection number of a fixed network terminal device for the administration of said function;

means for allocating a connection number communicated after instructing said mobile network subscriber to said mobile network subscriber; and

means for controlling a handling of a call initiated from said fixed network terminal device via said service, said call being allocated to said mobile network subscriber with assistance of said connection number of said fixed network, dependent on a profile of said mobile network subscriber.

5. A service logic according to claim 4, further comprising a means of informing said mobile network subscriber of a selection code that is to be additionally employed given use of said fixed network terminal device via said service.

6. A service logic according to claim 4, further comprising:

means for automatically de-registering said fixed network terminal device that has been employed after expiration of a prescribable time or by an explicit deregistration procedure via said mobile telephone, resulting in a loss of a property of being able to be used by the mobile network subscriber according to said subscriber's user profile.

XII. 37 CFR 41.37(c)(1)(ix) - Evidence appendix

This section is not applicable in this appeal.

XIII. 37 CFR 41.37(c)(1)(x) - Related proceedings appendix

This section is not applicable in this appeal.

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